

§ 3 The legal system of the European Union

I. The concept of integration through law

1) Integration based on law and the respect for law

- parts of the substantive law of the integration directly regulated in the Treaties
- Union confined to pass legal acts that member states must execute
 - compliance essential - even small irregularities may cause serious distortions in the internal market jeopardizing the integration process
 - no coercive powers of the Union to enforce its law in the member states
- strong *emphasis on the rule of law* which is a common fundamental value (cf. art. 2 EU Treaty)
 - demanding requirements for the implementation and execution of Union law in the member states
 - effectiveness (effet utile) the dominant criterium in the dealing with Union law

2) Prominent role of the European Court of Justice

- an institution on equal terms with the others
- a motor for the development of European Union law that has worked out many characteristic features and elements by *judicial further development of law*
- ECJ jurisprudence the most comprehensive and up-to-date collection of elements of the rule of law in the world

II. The sources and characteristics of European Union law

- see detailed presentation in **Diagram 3**

- 1) The sources of Union law
- 2) The characteristic features of Union law

III. The execution of European Union law

- see **Diagram 3**

IV. The enforcement of European Union law

1) The most important legal actions at the European Court of Justice

- actions for failure to fulfil obligations (→ against member states) (art. 258 et seq. FEU Treaty)
 - important instrument of the European Commission to enforce compliance with Union law
- actions for annulment (→ of legal acts of the Union) (art. 263 et seq. FEU Treaty)
 - also of citizens if addressed or directly and individually concerned
- actions for failure to act (→ against Union institutions) (art. 265 FEU Treaty)
- references for preliminary rulings (→ by courts of the member states) (art. 267 FEU Treaty)
 - binding preliminary ruling on the interpretation of primary and secondary law and the validity of acts of secondary law if the question is decisive in the proceedings at the referring court
 - most important type of proceedings for the development of legal dogmatics

2) The ensurance of compliance with the decisions of the European Court of Justice by lump sums or penalty payments (art. 260(2) FEU Treaty)

- imposed by ECJ on application of the European Commission
- an instrument frequently used in practice